

**Response to Comments on Changes to the
Nevada and California Greater Sage-Grouse Bi-
State Distinct Population Segment
Carson City Field Office Consolidated Resource
Management Plan and the Tonopah Field Office
Resource Management Plan Amendment**

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Nevada**

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RESPONSE TO COMMENTS ON CHANGES TO THE NEVADA AND CALIFORNIA GREATER SAGE- GROUSE BI-STATE DISTINCT POPULATION SEGMENT CARSON CITY FIELD OFFICE CONSOLIDATED RESOURCE MANAGEMENT PLAN AND THE TONOPAH FIELD OFFICE RESOURCE MANAGEMENT PLAN AMENDMENT

Introduction

The United States Forest Service (USFS) was the lead agency for preparing the Greater Sage Grouse Bi-State Distinct Population Segment (BSSG) Forest Plan Amendment (Plan Amendment) and Final Environmental Impact Statement (FEIS). The BLM, a cooperating agency, is proposing to amend the Carson City Field Office Consolidated Resource Management Plan and the Tonopah Field Office Resource Management Plan based on analysis in this FEIS. The environmental consequences of the proposed changes and clarification have been analyzed as part of the Plan Amendment and FEIS process.

The Environmental Protection Agency (EPA) published the Notice of Availability (NOA) for BSSG Forest Plan Amendment/Draft Environmental Impact Statement in the Federal Register on August 23, 2013 (78 FR 52524); which initiated a 90-day comment period. An NOA for the BSSG Forest Plan Amendment/Revised Draft Environmental Impact Statement was published by EPA on July 11, 2014 (79 FR 40100); which initiated a second 90-day comment period.

The NOA for the BSSG Forest Plan Amendment and Final Environmental Impact Statement in the Federal Register on February 13, 2015 (80 FR 8081), which initiated a 30-day BLM protest period. The Plan Amendment and FEIS identified the BLM Plan as the Proposed Plan. The BLM received three protest letters. In response to protests and based on additional policy discussions, the BLM clarified and made changes to the Proposed Plan. The clarification and changes included: (1) identifying disturbance levels within BSSG habitat, (2) adjusting buffers for tall structures near active or pending leks, (3) adding a restriction for new high-power transmission lines, and (4) changing on-the-ground management for habitat connectivity.

On November 13, 2015, the EPA published a notice announcing the BLM was soliciting comments on the proposed changes. The notice identified those clarifications and changes and initiated a 30-day public comment period (43 CFR 1610.2(f)(5) and 43 CFR 1610.5-1(b)). Comments were restricted to the proposed changes. At the request of the public, the comment period was extended until January 29, 2016. The BLM received 39 comment letters on the proposed changes.

The BLM recognizes that commenters invested considerable time and effort to submit comments on the proposed changes. Upon receipt, each comment letter was assigned an identification number. Substantive comments from each letter were summarized and a response was crafted to respond to the comments.

Although each comment letter was diligently considered, the comment analysis process involved determining whether a comment was substantive or nonsubstantive in nature. In performing this analysis, the BLM relied on CEQ (Council on Environmental Quality) regulations to determine what constituted a substantive comment.

A substantive comment does one or more of the following:

- Questions, with a reasonable basis, the accuracy of the information and/or analysis in the EIS

- Questions, with a reasonable basis, the adequacy of the information and/or analysis in the EIS
- Presents reasonable alternatives other than those presented in the Draft EIS that meet the purpose and need of the proposed action and address significant issues
- Questions, with a reasonable basis, the merits of an alternative or alternatives
- Causes changes in or revisions to the proposed action
- Questions, with a reasonable basis, the adequacy of the planning process itself

Additionally, the BLM's NEPA (National Environmental Policy Act) Handbook H-1790-I identifies the following types of substantive comments:

- **Comments on the Adequacy of the Analysis:** Comments that express a professional disagreement with the conclusions of the analysis or assert that the analysis is inadequate are substantive in nature but may or may not lead to changes in the Proposed RMP/Final EIS. Interpretations of analyses should be based on professional expertise. Where there is disagreement within a professional discipline, a careful review of the various interpretations is warranted. In some cases, public comments may necessitate a reevaluation of analytical conclusions. If, after reevaluation, the manager responsible for preparing the EIS (the BLM Authorized Officer) does not think that a change is warranted, the response should provide the rationale for that conclusion.
- **Comments That Identify New Impacts, Alternatives, or Mitigation Measures:** Public comments on a draft EIS that identify impacts, alternatives, or mitigation measures that were not addressed in the draft are substantive. This type of comment requires the Authorized
- **Disagreements with Significance Determinations:** Comments that directly or indirectly question, with a reasonable basis, determinations regarding the significance or severity of impacts are substantive. A reevaluation of these determinations may be warranted and may lead to changes in the Final EIS. If, after reevaluation, the Authorized Officer does not think that a change is warranted, the response should provide the rationale for that conclusion.

Comments that failed to meet the above description were considered nonsubstantive. The BLM received 39 submitted comment letters, however, 26 of those did not contain any substantive comments. Many comments received expressed personal opinions or preferences or represented commentary regarding resource management that is outside the scope of the planning effort. Comments on the range-wide greater sage grouse population, travel management planning, predator controls, and vegetation treatments are outside the scope of the comments requested and are therefore not responded to.

Opinions, feelings, and preferences for one element or another, and comments of a personal or philosophical nature were all read, analyzed, and considered. Because such comments are not substantive in nature, the BLM did not respond to them. It is also important to note that, while all comments were reviewed and considered, comments were not counted as votes. The NEPA public comment period is neither considered an election nor does it result in a representative sampling of the population. Therefore, public comments are not appropriate to be used as a democratic decision-making tool or as a scientific sampling mechanism.

ISSUE TOPICS AND RESPONSES

Habitat Disturbance

Summary:

Issue 1: Commenters questioned how anthropogenic disturbance would be defined and how disturbance caps would be calculated.

Issue 2: Commenters state that the disturbance caps are inconsistent with the Federal Land Policy and Management Act (FLPMA) multiple-use mandate.

Issue 3: Commenter requested a lower disturbance cap be adopted.

Response:

- I. The definition of anthropogenic disturbance is provided in the Record of Decision along with a discussion on how disturbance caps are calculated. The anthropogenic disturbance is calculated within a 4.7-mile lek buffer which was the distance identified by Coates et al. (2013) during his study of surface use habitats of nesting, brood-rearing, and wintering sage grouse. What Coates et al. (2013) found was that 95 percent of the habitat used for nesting, brood-rearing, and wintering habitat falls within 4.7 miles of active leks. Also considered was the findings of Knick et al. (2013) that found that leks with more than 3 percent anthropogenic disturbance within 5 kilometers (3.1 miles) of the lek were less productive than those leks with less than 3 percent disturbance inside the 5-kilometer buffer. The results of Coates et al. (2013) and Knick et al. (2013), supports the adoption of a 3 percent anthropogenic disturbance cap to be measured at the lek-buffer

scale. The buffers are 1.6 miles (2 kilometers) larger than those used in Knick et al. (2013) to protect brood-rearing habitat and valuable winter habitat. Disturbance will require site-specific project mitigation to ensure no unmitigated net loss of habitat. This requires assessing habitat availability at the landscape scale. The disturbance cap would be based on existing anthropogenic disturbance in BSSG habitat regardless of ownership. Existing roads, powerline corridors, substations, fence lines, range facilities, recreational facilities and trails, disturbance related to mineral exploration and development would all contribute to the determination of the existing condition, once the existing condition was determined, any additional (proposed) disturbance would be added to that level until the 3 percent cap was met.

2. The BLM's FLPMA (Section 103(c)) defines "multiple use" as the management of the public lands and their various resource values so that they are used in the combination that will best meet the present and future needs of the American people. Accordingly, the BLM and Forest Service are responsible for the complicated task of striking a balance among the many competing uses to which public lands can be put. The BLM's multiple-use mandate does not require that all uses be allowed on all areas of the public lands. The purpose of the mandate is to require the BLM to evaluate and choose an appropriate balance of resource uses, which involves tradeoffs between competing uses. The FLPMA also directs the BLM to develop and periodically revise or amend its RMPs, which guide management of BLM-administered lands, and provides an arena for making decisions regarding how public lands would be managed and used.
3. Adopting a disturbance cap of 1% for the Bodie Mountains/Grant, Desert Creek/Fales, and White Mountain population management units outside the scope of the Revised Draft EIS/Final. Land use planning and NEPA regulations (1501.2)(c) require the BLM to formulate a reasonable range of alternatives. Established planning criteria, as outlined in 43 CFR Section 1610 guides the alternative development process. A range of alternatives were developed in the Revised Draft EIS/Final EIS to resolve conflicts among resources and resource uses and meet the purpose and need. All future project proposals will require new decision making with appropriate NEPA analyses, including addressing mitigation measures and stipulations required for the specific permitted activity on public lands.

Tall Structure Buffer

Summary:

Issue 1: A commenter suggested adopting a 3-mile buffer distance rather than the proposed 4-mile distance.

Issue 2: Commenters asked how 4 miles will be calculated for buffer distances.

Issue 3: A commenter proposed allowing flexibility to permit new high-power transmission lines or to allow rights-of-ways where fundamental county needs are expressed.

Response:

1. As part of the protest process, the BLM found that it needed to correct an error in the Proposed Plan Amendment and FEIS. The BLM found that it should have identified the buffer distance for tall structures as 4 miles from active or pending leks. The 4-mile lek buffer accords with other prescriptions of surface disturbance in sage grouse habitat and is consistent with best science available. Science (Coates et al, 2013) indicates that the 95th percentile of nest distribution occurs within 3.1 mi (5 km) of leks. Buffer designations that extend 3.1 – 4.66 mi (5– 7.5 km) from all known lek locations are likely to limit both direct and indirect adverse effects to sage-grouse nesting associated with anthropogenic disturbance.
2. If a project is in four miles of a lek, the project specific NEPA would look at topographic features and vegetation consistent with valid and existing rights and applicable law in authorizing third-party actions.
3. Currently, there are no proposed high-power transmission lines or rights-of-ways that would be affected by this land use plan amendment. The LUPA may be changed, should conditions warrant, through a plan amendment or revision process. A plan amendment may become necessary if major changes are needed or to consider a proposal or action that does not conform with the plan. The results of monitoring, evaluating new data, making policy changes, and changing public needs might also provide a need for a plan amendment. If several areas of the plan become outdated or otherwise obsolete, a plan revision may become necessary. Plan amendments and revisions are accomplished with public input and the appropriate level of environmental analysis conducted according to the CEQ procedures for implementation of NEPA.

High-Voltage (120kV) Transmission Line

Summary:

Issue 1: Commenters were concerned that excluding transmission lines would impact economic development.

Response:

- I. Currently, there are no proposed high-power transmission lines within the land use plan amendment area. The LUPA may be changed, should conditions warrant, through a plan amendment or revision process. A plan amendment may become necessary if major changes are needed or to consider a proposal or action that does not conform with the plan. The results of monitoring, evaluating new data, making policy changes, and changing public needs might also provide a need for a plan amendment. If several areas of the plan become outdated or otherwise obsolete, a plan revision may become necessary. Plan amendments and revisions are accomplished with public input and the appropriate level of environmental analysis conducted according to the CEQ procedures for implementation of NEPA.

Connectivity Areas

Summary:

Issue 1: Commenters questioned the need for management of connective area, requested a definition of connective areas and clarification.

Response:

- I. The BLM is further clarifying language regarding Alternative C to provide for management of connectivity habitat. The BSSG landscape is fragmented by areas of agriculture and urbanization, as well as areas of naturally-occurring and encroaching pinyon-juniper vegetation. Sage grouse habitats within and between population management units are often separated by stretches of unsuitable areas that may inhibit sage-grouse movements across the landscape. Alternative C provides a limited amount of management direction to maintain or enhance suitability of connective area. Alternative C includes a goal about habitat and movement and an objective of improving degraded habitat, including areas with conifer encroachment (i.e., pinyon-juniper). Actions and Best Management Practices relating to connectivity apply primarily to mineral uses. Alternative C states that where valid existing rights exist, in connective habitat areas, vegetation characteristics suitable to sage grouse should be maintained to the extent technically feasible (C-Min-S-01). In addition, Alternative C provides additional direction not specific to connectivity which states, "Vegetation treatments and post-

disturbance restoration should seed and/or transplant sagebrush to restore large patches of sagebrush cover and connect existing patches” (C-Wild-S-02). Given the fragmented nature of the bi-state landscape and the level of apparent isolation of subpopulations, additional management direction for connective habitat area is necessary to facilitate sage grouse movement, reduce isolation, and increase genetic interchange between subpopulations. This change is being made in response to policy discussions.

Commenter List

Nevada Rural Electric Association
 United 4-Wheel Drive Association
 Board of County Commissioners Esmeralda County Nevada
 Ira Hansen, Nevada Assemblyman District 32
 Brent Fridrich
 Tom Willis
 Don Pizzo
 Scott Smith
 Mike Ewing
 American Bird Conservancy
 Blue Ribbon Coalition
 Nevada State Historic Preservation Office
 Western Watersheds Project
 D. Capp
 Robert Jump
 Stuart Wik
 WildLands Defense
 Capital Trail Vehicle Association
 Wells Rural Electric Company
 Pine Nut Trails Association
 Terry McTimmonds
 WildEarth Guardians
 F.I.M. Corporation
 Coeur Mining
 Joseph Bryan
 Kevin McBean
 Michelle L. Szpakowska-Ochoa
 Nevada Cattlemen's Association
 Scott D. Fulrath
 Board of County Commissioners Douglas County Nevada
 Heidi E. Blankenship
 Office of the Governor Nevada
 Nevada Mining Association
 Board of County Commissioners Lyon County Nevada
 Nevada Association of Counties
 American Wild Horse Preservation